

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No. 1:22-cv-00506

DUNDRIELLE BLAKENEY,)
)
 Plaintiff,)
)
 v.)
)
)
WAFFLE HOUSE, INC.,)
)
)
 Defendant.)

NOTICE OF REMOVAL TO
FEDERAL COURT

Defendant Waffle House, Inc. (“Waffle House” or “Defendant”), by and through undersigned counsel, respectfully removes the above-entitled action from the Superior Court of Rowan County, North Carolina, to the United States District Court for the Middle District of North Carolina, pursuant to 28 U.S.C. §§ 1332 and 1441. In support of this Notice of Removal, Defendant states as follows:

1. This action is being removed to federal court based on diversity of citizenship between the parties and an amount in controversy that is, on information and belief, greater than \$75,000.00.

2. On June 3, 2022, Plaintiff filed a Complaint in the Superior Court of Rowan County, North Carolina, styled “Dundrielle Blakeney v. Waffle House, Inc.” That case was assigned civil action number 22 CVS 955 (the “Superior Court action”). Waffle House was served with the

summons and Complaint on or about June 6, 2022. This notice is being filed within thirty (30) days of the date of service of the summons and Complaint on Defendant.

3. Plaintiff's claims for relief against Defendant in the Superior Court action are for negligence, personal injury, and punitive damages.

4. The United States District Court for the Middle District of North Carolina has original jurisdiction over the Superior Court action pursuant to 28 U.S.C. §1332(a) and it may be removed by Defendant pursuant to 28 U.S.C. §1441(a) and (b) for the following reasons:

- (a) Per the Plaintiff's Complaint, he is a resident of the State of North Carolina.
- (b) At the commencement of this action and at all relevant times, Defendant Waffle House, Inc. was a Georgia corporation, both by incorporation and principal place of business.
- (c) The matter in controversy between Plaintiff and Defendant was, at the commencement of this action, one in which complete diversity of citizenship exists.
- (d) The amount in controversy between the Plaintiff and Defendant in this action, exclusive of interest and costs, exceeds \$75,000.00, on information and belief, and based on the allegations in Plaintiff's Complaint and medical bills provided to Waffle House by Plaintiff's counsel before this action was filed.
- (e) Therefore, Defendant files this notice of removal of this action from Rowan County Superior Court to

the United States District Court for the Middle
District of North Carolina.

5. Attached to this notice as Exhibit 1 are copies of the
Summons and Complaint filed in the Superior Court action.

6. A copy of this Notice of Removal is being served on the
Clerk of Court of Rowan County, North Carolina contemporaneously
with its filing with this Court, as shown by the notice attached as
Exhibit 2.

WHEREFORE, Defendant respectfully requests that this action
be removed from the Superior Court of Rowan County, North Carolina,
to the United States District Court for the Middle District of North
Carolina.

This the 1st day of July 2022.

/s/ F. Marshall Wall
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Plaintiff,)
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v.)
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WAFFLE HOUSE, INC.,)
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Defendant.)

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of July, 2022, I electronically filed the *Notice of Removal to Federal Court* with the Clerk of Court using the CM/ECF system and mailed the document via the United States Postal Service, postage pre-paid and addressed to:

Peter C. Smith
Koontz & Smith
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Salisbury, NC 28145-1067

/s/ F. Marshall Wall
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